

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA, : CRIMINAL ACTION
No. 18-10251-ADB-1

Plaintiff, :

v. :

BYRON CARDOZO, :

Defendant. :

: :

BEFORE THE HONORABLE JUDITH G. DEIN,
UNITED STATES MAGISTRATE JUDGE
DETENTION HEARING

APPEARANCES:

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of America:

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U. S. District Court
1 Courthouse Way
Boston, Massachusetts 02210
Friday, September 28, 2018
11:19 a.m.

Proceedings recorded by electronic sound recording; transcript
produced by transcription service.

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1 P R O C E E D I N G S

2 THE COURTROOM DEPUTY: -- Massachusetts is now in
3 session on September 28th, the year 2018, in the matter of the
4 United States of America versus Byron Cardozo, Criminal Case
5 No. 2018-10251.

6 Could counsel please identify themselves for the
7 record?

8 MS. BURKART: Good morning, your Honor. Amy Burkart
9 for the United States with my colleague, Mona Sedky, from the
10 Department of Justice.

11 THE COURT: Good morning.

12 MS. PEACHY: Good morning. Jane Peachy for
13 Mr. Cardozo.

14 THE COURT: We're scheduled for a detention hearing.
15 Are we ready to proceed?

16 MS. PEACHY: Yes, your Honor.

17 THE COURT: Okay.

18 Government, call your first witness.

19 MS. SEDKY: Thank you, your Honor.

20 We've spoken with defense counsel and we'd like to
21 move to introduce and admit our, I think we have 11 exhibits.

22 THE COURT: No objection?

23 MS. PEACHY: There are no objections, your Honor.

24 THE COURT: All right.

25 MS. PEACHY: And I've also submitted some object,

1 exhibits to the Court.

2 THE COURT: Do you want to wait or do you want to --
3 you want to enter them now or do you want to wait?

4 MS. PEACHY: I -- we can enter them now --

5 THE COURT: Okay.

6 MS. PEACHY: -- as long as there's no objection, your
7 Honor.

8 THE COURT: No objection to them?

9 MS. SEDKY: We have no objection.

10 THE COURT: All right.

11 So Government's Exhibits 1 through 12 -- I think -- 12
12 are admitted and Defense Exhibits 1 through 6 are admitted.

13 (Government's Exhibits 1 through 12 and Defense Exhibits 1
14 through 6 admitted in evidence)

15 THE COURT: Okay.

16 MS. SEDKY: Thank you, your Honor.

17 THE COURT: Go ahead.

18 MS. SEDKY: The Government would like to call Special
19 Agent Michael Fahey to the stand.

20 THE COURTROOM DEPUTY: Please raise your right hand.

21 MICHAEL FAHEY, GOVERNMENT'S WITNESS, SWORN

22 THE COURTROOM DEPUTY: Please be seated. Please state
23 your full name, spelling your last name for the record.

24 THE WITNESS: Michael Fahey, F-A-H-E-Y.

25 THE COURT: You may proceed.

FAHEY - DIRECT

1 DIRECT EXAMINATION

2 BY MS. SEDKY:

3 Q Good morning, Special Agent Fahey.

4 Could you tell us, where do you work?

5 A I'm a special agent with the Department of Homeland
6 Security's Federal Protective Service currently assigned as a
7 Task Force officer to the FBI's Cybercrimes Task Force.

8 Q As a Task Force officer at the FBI in the Cybercrimes Task
9 Force, what kind of work do you do there?

10 A We conduct investigations into cyber-related criminal
11 activities like, such as computer intrusions, cyberstalking,
12 ransomware, phishing.

13 Q And how long have you been a Task Force officer?

14 A One year.

15 Q And how long were you with the Federal Protection Service
16 before that?

17 A Just about 22 years.

18 Q And in your 22 years at the FPS what kind of work were you
19 doing?

20 A I worked as a dispatcher initially, worked four years in
21 uniform, and I've been a special agent and criminal
22 investigator since 2002.

23 Q What types of crimes were you investigating?

24 A We handle crimes against government facilities and
25 government employees. It can be threats, assaults, larcenies.

FAHEY - DIRECT

7

1 Q Okay.

2 And what's your role in the investigation of the defendant,
3 Byron Cardozo?

4 A I'm aware of some of the documentation and I've spoken to
5 the case agent.

6 Q Fair to say you're not the primary case agent?

7 A I am not.

8 Q And have you had an opportunity to review any items in the
9 case file?

10 A I have.

11 Q And tell us, big picture, what have you reviewed?

12 A I reviewed police reports, criminal histories, interview
13 summaries. I've reviewed messages that were received by
14 victims. I've reviewed court orders. Yeah.

15 Q Okay. Describe generally, if you could, what is the
16 offense conduct that's set forth in the indictment in this
17 case.

18 A Cyberstalking and interstate threats.

19 Q And approximately during what time period and, big picture,
20 what were the threats about?

21 A Roughly, from February 2017 until August of 2018. There
22 were hundreds of electronic communications of a threatening and
23 harassing nature delivered through multiple, multiple social
24 media and communication methods.

25 Q Okay. And was there any primary recipient of the threats?

FAHEY - DIRECT

1 A There was.

2 Q And do you know who that person is?

3 A I do.

4 Q How is she referred in the indictment?

5 A Jane Doe No. 1.

6 Q Okay. So you know her true identity.

7 How old is she, approximately?

8 A Thirty years old.

9 Q Do you know where she lives?

10 A Massachusetts.

11 Q Okay. And what type of work does she do?

12 A She's a photographer and writer.

13 Q Where did she grow up?

14 A Florida.

15 Q And what, if any, connection does she have with

16 Mr. Cardozo?

17 A They attended the same middle school-high school at the

18 same time.

19 Q And who was in middle school and who was in high school?

20 A She was a middle school student and he was in high school.

21 Q And did they ever meet in person?

22 A They did.

23 Q Tell us about that.

24 A There was an occasion where they had been communicating

25 online predominantly for a short period of time and he invited

FAHEY - DIRECT

1 her to meet at a mall.

2 So she went to the mall, got dropped off. Met him there.

3 He asked her to walk with him out to his vehicle in the parking

4 lot, which she did. When she arrived at his vehicle there was

5 another male occupant of the vehicle. The three proceeded to

6 engage in a sexual encounter and then they went their separate

7 ways.

8 Q Do you know approximately what year this sexual encounter

9 was?

10 A 2001.

11 Q And do you remember approximately how old Jane Doe 1 was at

12 the time?

13 A She was approximately 13.

14 Q And how old approximately was Mr. Cardozo at the time?

15 A Seventeen.

16 Q And do you know the other, without saying his name, do you

17 know the identity of the other male in the car?

18 A Yes.

19 Q And approximately how old was he?

20 A Seventeen as well.

21 Q And what, if any, connection did he have with Mr. Cardozo?

22 A They were classmates in high school.

23 Q And --

24 BY THE COURT:

25 Q Was this in Florida?

FAHEY - DIRECT

1 A Yes.

2 BY MS. SEDKY:

3 Q You said that at the time Jane Doe 1 was in middle school
4 and Mr. Cardozo was in high school. How did that come about if
5 they were in different schools? How did they know each other?

6 A The school shared a campus. So the middle school and high
7 school were on the same campus and Jane Doe 1 had a friend who
8 was also friends with Mr. Cardozo.

9 Q And describe the sexual encounter in a little bit more
10 detail, please. What happened?

11 A Sure.

12 Jane Doe 1 performed oral sex on both Mr. Cardozo as well
13 as the other male.

14 Q Okay. And how did Jane Doe 1 describe this encounter?

15 A She described it as traumatic, force, as a, like a, an
16 uncomfortable experience.

17 Q Did she ever call the police?

18 A She did not.

19 Q Okay.

20 And you mentioned that there was another friend of Jane Doe
21 2's that had a connection with Mr. Cardozo. Are you aware of
22 the identity of, we'll call her Jane Doe 2?

23 A I am.

24 Q And has the FBI interviewed her as well?

25 A They have.

FAHEY - DIRECT

1 Q And where does she live?

2 A She lives in Massachusetts.

3 Q And approximately how old is she?

4 A Approximately 30 years old.

5 Q So she was, essentially, Jane Doe 1's same age?

6 A Yes.

7 Q Also in middle school?

8 A Yep.

9 Q And how did she describe, if, if at all, her relationship
10 with Mr. Cardozo?

11 A They had a dating relationship around the same period of
12 time, the 2001 time frame.

13 Q And when you say "dating," can you be more specific?

14 A It was a sexual relationship between her and Mr. Cardozo.

15 Q Okay.

16 So I want to take your attention to the time period of 2001
17 to 2015. So after the 2001 sexual encounter through 2015.
18 What, if any, contact was there between Mr. Cardozo and Jane
19 Doe 1?

20 A He would reach out periodically through Facebook to try to
21 reconnect with her. She would ignore those messages. She
22 would block the accounts he was reaching out to her on. He
23 would create additional accounts, reach out to her again.

24 Q Okay. And at some point did Jane Doe 1 respond to one of
25 Mr. Cardozo's Facebook messages?

FAHEY - DIRECT

1 A She did.

2 Q And tell us about that.

3 A She was in the position like where she was contemplating
4 the, the sexual encounter back in high school and she wanted to
5 talk to him about his, his view on the, the incident.

6 So she needed to reach out and respond to one of his
7 messages.

8 Q Do you remember approximately when this was?

9 A That was in the beginning of 2016.

10 Q Okay. And in the course of this Facebook message what does
11 she, what does she do? What does she say and how does he
12 respond?

13 A She says that, you know, she's been thinking about this
14 interaction. She felt it was forced and uncomfortable and
15 traumatic and she wanted to know what his, how he felt about
16 it.

17 He expressed -- he apologized and, you know, apologized to
18 her for whatever, you know, harm he caused her.

19 Q And did she have any plans to do anything with the
20 information?

21 A She did. She also asked -- she explained to him that she
22 was considering writing an essay about the incident and she
23 asked his permission to write that essay, which he granted
24 under the conditions that pseudonyms would be used for the, the
25 parties involved.

FAHEY - DIRECT

13

1 Q Okay.

2 So moving ahead, taking your attention to December 2016, or
3 thereabout, what happened next?

4 A She published an essay on an online magazine which detailed
5 the incident that occurred at the mall.

6 Q And how does she describe the incident in her essay?

7 A As a traumatic and negative forced experience.

8 Q Did she use the term "rape"?

9 A No.

10 Q Did she use the term "sexual assault"?

11 A No.

12 Q Did she use her real name when she published it?

13 A She did.

14 Q And did she use the other parties' real names?

15 A She did not.

16 Q Do you know which pseudonym she used for each of the
17 parties involved?

18 A I do.

19 Q Who was, who was Mr. Cardozo?

20 A Chad.

21 Q And who was the other male who was Mr. Cardozo's friend in
22 the car?

23 A Gil.

24 Q And who was Jane Doe 2?

25 A Beth.

FAHEY - DIRECT

1 Q Okay.

2 So one -- so one --

3 MS. SEDKY: Did you have a question, your Honor?

4 THE COURT: (No audible response.)

5 MS. SEDKY: Okay. Sorry.

6 BY MS. SEDKY:

7 Q I want to --

8 THE COURT: Well, I do, now that you paused.

9 BY THE COURT:

10 Q But Jane Doe 2 was the friend?

11 A Yes, your Honor.

12 Q Is the other, the female friend? Okay.

13 BY MS. SEDKY:

14 Q I want to direct your attention to the February 2017 time
15 frame after the essay was published.

16 What happened next?

17 A She immediately started receiving harassing and threatening
18 messages from Mr. Cardozo.

19 Q How long did they last?

20 A Right up until about August of 2018.

21 Q When was he arrested, Mr. Cardozo?

22 A August of 2018.

23 Q Okay. And approximately -- you testified earlier --
24 approximately how many communications are we talking about?

25 A There were hundreds.

FAHEY - DIRECT

1 Q And you said there were multiple methods. Could you
2 describe a few of those for us?

3 A Yeah. She received messages on Facebook, on Twitter.
4 There were messages posted in the Comments section of the
5 online magazine where the essay was published as well as
6 comments posted, messages posted in the Comments section of
7 Jane Doe 1's own website.

8 Q And was there a primary method of communication of the ones
9 that you've just listed?

10 A It was the comments posted on the online magazine where the
11 essay was published.

12 Q And is it -- have you had an opportunity to look at any of
13 these communications, the, the comments?

14 A I have.

15 Q Are they publicly viewable, or were they publicly viewable
16 at the time, if you know?

17 A I'm not sure.

18 Q Okay.

19 What names was he -- well, let me step back.

20 In addition to posting communications on the, on the
21 various Comments and communicating through Facebook and Twitter
22 with Jane Doe 1, did he communicate about Jane Doe 1 to anyone
23 else associated with Jane Doe 1?

24 A He did. He reached out to professional associates of hers.

25 Q And what names was he using, typically, during his

FAHEY - DIRECT

1 communications?

2 A They would be derivatives of the pseudonyms used in the
3 essay. There was Chad Chaddington. There was Gil, Gilbert
4 Gillington.

5 Q Any others that you think, can think of?

6 A He, he also used the, the true name of the second party
7 that was in the vehicle involved in the, the incident.

8 Q Okay. And in the course of reviewing these voluminous
9 communications were there any recurring themes that, that you
10 noticed in reviewing them?

11 A There were. Mr. Cardozo made posts ranging from
12 apologizing for his behavior to accusing Jane Doe No. 1 of
13 fabricating the story, lying, seeking attention. He would
14 provide his description of the sexual encounter in graphic
15 detail as well as his sexual encounters with Jane Doe No. 2.
16 He would make comments about suicide. Yeah.

17 Q Whose suicide?

18 A His own.

19 Q Did he, did he describe any of his own sexual
20 gratification?

21 A He did. He would make comments about masturbating to Jane
22 Doe No. 1's story as well as pictures on the Internet.

23 Q Any other recurring things that you can think of?

24 A None that I can think of.

25 Q Did he talk about Jane Doe 1's sexual orientation?

FAHEY - DIRECT

1 A He did. He -- he -- there was a post where he questioned
2 whether or not the sexual encounter caused her to become a
3 homosexual.

4 Q And what about the threats you talked about earlier?

5 A Uh-huh (indicating an affirmative response).

6 Q Do you remember anything specific? And I'll show you some
7 examples in a moment.

8 Q I do. He, he made comments that he would treat, show her
9 what an assault really was. He made comments that indicated he
10 was -- there was -- he was intending to assault.

11 Q Okay.

12 I'd like to direct your attention to what's been marked as
13 Exhibit No. 1. It's an April 13, 2018 posting under the online
14 magazine, Guernica.

15 A Uh-huh (indicating an affirmative response).

16 Q Could you just read for us, please, the -- who is the
17 author listed in these, these three comments?

18 A Gilbert Gillington, III.

19 Q Okay. And could you just please read -- they're each about
20 a sentence -- could you please read them?

21 A Certainly. (Reading):

22 "Best believe I'll never forget this ever for the rest of
23 your sad, fucking homosexual, lying life. I'll fucking haunt
24 you, bitch. I'll never go away. You'll always have to look
25 over your scared shoulder. Ha, ha, ha, ha. You fucking lied

FAHEY - DIRECT

1 about me and then tried to have me arrested. Fuck you, you
2 fucking cunt. Till the day I die" -- "Till the day I dae,
3 I'll fucking remind you what a lying piece of fucking shit you
4 are, blank fucker blank."

5 Q Okay. And that was her name --

6 A Correct.

7 Q -- in the blanks?

8 I'd like to direct your attention to what's been marked as
9 Exhibit 2. And this is a May 21, 2018 post to the Comments.

10 And let me just step back. Where, where was Exhibit 2
11 posted? Where were these comments?

12 A These were the ones that were posted -- once the Comments
13 section on the online magazine was closed, the, the postings
14 began, began appearing on her, Jane Doe 1's, website.

15 So this is a posting from her website.

16 Q And without saying the name out loud, do you recognize the,
17 the, the name that is put in there for the, the name of the, of
18 who, who made the post?

19 A I did, yep.

20 Q And without saying the name out loud, who is that?

21 A It was the second occupant of the vehicle involved in the
22 sexual incident.

23 Q Okay.

24 And so could you please read these, I believe it's four
25 pages?

FAHEY - DIRECT

19

1 A Uh-huh (indicating an affirmative response). (Reading):

2 "You fucking bitch. Keep it up and you will know what it

3 means to be assaulted. You will fucking find out what happens

4 when you cry wolf, bitch. You are fucking done. I dare you to

5 keep pulling this shit. I fucking dare you, bitch. You will

6 know fear, trust me. By the time this shit is over, you'll be

7 wishing you just ignored it."

8 Q And I'd like to direct your attention to what's been marked

9 as Exhibit No. 3. This is a July 10, 2018 posting also on Jane

10 Doe 1's personal website.

11 This name, directing your attention to the, to the name

12 part of Exhibit 1, without reading that name aloud, do you

13 recognize the name of the sender, the supposed poster?

14 Oh, you probably can't read it, can you?

15 A No. It's redacted on the --

16 MS. SEDKY: Your Honor, may I approach the witness? I

17 have one that he can probably look --

18 THE COURT: Yes.

19 MS. SEDKY: -- through that's not redacted.

20 BY MS. SEDKY:

21 Q It's chicken scratching, I know, but -- (counsel shows

22 document to the witness.)

23 A Yeah.

24 Q Okay. Do you recognize the name of the poster?

25 A I do. That would be Jane Doe No. 1.

FAHEY - DIRECT

1 Q Her first and last name?

2 A Correct.

3 Q And could you please read Exhibit No. 3?

4 BY THE COURT:

5 Q So who's the sender here?

6 A The sender -- the name provided for the sender is Jane Doe

7 No. 1's own name.

8 Q Oh. Okay.

9 BY MS. SEDKY:

10 Q And the actual e-mail account where it says @liarmail.com,

11 does Jane Doe No. 1's name appear before the @liarmail.com?

12 A I didn't look at it when you brought it up.

13 Q Okay.

14 THE COURT: I'm going to -- well, go ahead.

15 THE WITNESS: Okay.

16 It does.

17 BY MS. SEDKY:

18 Q Okay. And could you please read the few sentences we have

19 on July 10th?

20 A (Reading):

21 "Well, I have fucking \$8,000 worth of surgery to my right

22 eye, which was destroyed by you, you fucking evil bitch. Hear

23 me now," blank. "I will devote my miserable life to destroying

24 yours for what you have don't, you sick godless bitch. You

25 have terrorized my mother's life and my father's life. I won't

FAHEY - DIRECT

21

1 sleep until you are exposed for the soulless cunt you truly
2 are, you sick fuck. You think two hired thugs, fucks, can stop
3 me from giving you what you deserve? I fucking hope you try to
4 do something again, you delusional pathetic parasite. Writer,
5 photographer, and amateur magician and bitch full of shit, I
6 hope you send Seal Team 6 to kill me because you have no idea
7 who you have just fucked with, little girl."

8 Q Okay. Is it -- let me just --

9 Over these 18 months -- you testified earlier that there
10 were hundreds of communications over the course of about 18
11 months. How, if at all, did Jane Doe respond to these?

12 A She -- to the messages? She would ignore them. She would
13 not respond to the messages. In her personal life, she sought
14 assistance from a private attorney. In the beginning of 2017,
15 a cease and desist order was sent to Mr. Cardozo. In April of
16 2017, a, an injunction was granted, a protection order --

17 Q And I'd like to --

18 A -- preventing Mr. --

19 Q -- pause you there and just show you what's been marked as
20 Exhibit No. 4. (Counsel shows exhibit to the witness.)

21 A Uh-huh (indicating an affirmative response).

22 Q Is this the, the final Judgment of Injunction for
23 Protection that Jane Doe 1 had entered against Mr. Cardozo?

24 A It is.

25 Q And the date is April 24, 2017?

FAHEY - DIRECT

1 A It is.

2 Q I want to draw your attention to the second page where it
3 spells out the terms of the injunction. Can you describe for
4 the Court what types of behavior are enjoined?

5 A Yep.

6 The prohibited actions include stalking, cyberstalking,
7 aggravated stalking, any criminal offense resulting in physical
8 injury or death.

9 Q What does No. 2 say?

10 A (Reading)

11 "Respondent shall have no contact with petitioner unless
12 otherwise provided in this section."

13 Q And does (a), sub (a), spell out the types of contact he's
14 not allowed to have?

15 A It does.

16 Q And what does that include?

17 A (Reading):

18 "Respondent shall not directly or indirectly contact
19 petitioner in person, by mail, e-mail, fax, telephone, through
20 another person, or in any other manner, including any
21 electronic means or use of social media."

22 Q And I'd like to direct your attention to the next page,
23 Paragraph 3(b), like "boy."

24 A Uh-huh (indicating an affirmative response).

25 Q What does that prohibit?

FAHEY - DIRECT

1 A (Reading):

2 "Respondent shall not use or possess a firearm or
3 ammunition."

4 Q Okay.

5 So what else did Jane Doe do, if anything, to protect
6 herself?

7 A Uh-huh (indicating an affirmative response).

8 At one time she had to travel to Florida to attend a
9 conference and she felt the need to hire personal protection.
10 She hired a private investigator to provide her with a
11 bodyguard service during the time of that convention.

12 In addition, she was aware that Mr. Cardozo had a, the
13 terms of his community confinement were expiring. She knew
14 that time frame was coming up and she agreed to allow a private
15 investigator to be hired to conduct surveillance of
16 Mr. Cardozo.

17 Q Well, let me step back. I'm just trying to go
18 chronologically.

19 A Oh, certainly.

20 Q So she gets the April 2017 --

21 A Uh-huh (indicating an affirmative response).

22 Q -- protection order. And at some point do her attorneys
23 reach out on her behalf to, to people in the legal sphere?

24 A They do. They, they reach out to Mr. Cardozo's probation
25 officer.

FAHEY - DIRECT

1 Q Okay.

2 And is that February -- I'm sorry -- April 2017 final
3 judgment still in place right now?

4 A It is.

5 Q How does -- how, if at all, does Mr. Cardozo respond to
6 Jane Doe 1's attempt to protect herself?

7 A He just continues to message her. He -- some of the
8 messages, you know, state that he intends to continue to
9 contact her and she can try whatever she can try, but it's not
10 going to stop him.

11 Q Does he seem happy?

12 A No. He's angry.

13 Q And do things decelerate or accelerate?

14 A No. It, it gets worse. The, the messages increase in
15 anger and tone and frequency.

16 Q And you were testifying earlier -- I want to take you to
17 the June 2018 time frame.

18 A Uh-huh (indicating an affirmative response).

19 Q Is there any significance to the June 2018 time frame?

20 A Yeah. That's when his community confinement was expiring
21 and, you know, Jane Doe No. 1 agreed to allow a family member
22 to hire a private investigator to conduct surveillance of
23 Mr. Cardozo to inform the family if it appears he's making any
24 attempts to travel.

25 Q And was there a confrontation between the private

FAHEY - DIRECT

25

1 investigators and Mr. Cardozo in which Mr. Cardozo was injured?

2 A There was.

3 Q And is it -- when -- is it -- when did the FBI learn about
4 this confrontation between the private investigators and
5 Mr. Cardozo?

6 A After the confrontation occurred.

7 Q And did the FBI have an opportunity to ask Jane Doe 1 about
8 the confrontation?

9 A They did.

10 Q And what, if anything, did she say about her involvement in
11 it?

12 A She -- that, that was not an expected result of hiring the
13 private investigator. The private investigator was simply
14 hired to conduct surveillance and not ordered or advised in any
15 way to contact Mr. Cardozo directly.

16 Q Are you aware if there is any state or local criminal
17 investigation into the private investigators?

18 A There is.

19 Q And does the FBI play any role at all in that state or
20 local investigation?

21 A No.

22 Q Okay. And how did Mr. Cardozo, if at all, respond to this
23 incident in June of 2018?

24 A That included the messages that I previously read about the
25 injuries to the eye.

FAHEY - DIRECT

1 Q So Exhibit 4, in particular?

2 A Uh-huh (indicating an affirmative response).

3 Q Or, actually, I believe it's Exhibit 3, the July 10,
4 2018 --

5 A Correct.

6 Q -- messages. Those were in response to the, to the
7 confrontation with the private investigator?

8 A Correct.

9 Q Okay.

10 In the course of interviewing Jane Doe 1 did Jane Doe 1
11 describe any emotional or behavioral impacts this has had on
12 her?

13 A Yeah. She advised that in about the ninth grade she was
14 diagnosed with post traumatic stress. She's sought mental
15 health counseling on a weekly basis at periods in her life.
16 She's felt a need to restrict her online presence, closing down
17 accounts, limiting people who can view her accounts. She's
18 felt a need to advise people in her professional life of
19 Mr. Cardozo, who he is, her history, and risk that he poses to
20 her.

21 Q Okay.

22 I want to turn your attention to how it was the FBI was
23 able to determine who was responsible for sending these various
24 communications to, to Jane Doe 1 and others.

25 Did, did Mr. Cardozo try to hide his identity in ways other

FAHEY - DIRECT

1 than you testified earlier using these Chad and Gil and the
2 first name and last name of the other male in the car's --

3 A Uh-huh (indicating an affirmative response).

4 Q -- identity? Did he do anything else to try to hide his
5 identity?

6 A He did. The FBI was able to determine that some of the
7 postings came through a virtual private network service.

8 Q What's a virtual private network service?

9 A It's, it's a gateway service where a user of the Internet
10 reaches out to the virtual private network first and then their
11 communications through the Internet occur from that point out.

12 So anyone out on the Internet who's trying to see who's
13 reaching out and making these communications can only get as
14 far back as the virtual private network. They can't see the,
15 the true originator of the communications.

16 Q So it's -- is it sort of like tunneling through something?

17 A Yep, uh-huh.

18 Q And is there a specific piece of information, an, an
19 address or some information that, that is trying to be
20 obfuscated through a virtual private network?

21 A It's the IP address, yeah.

22 Q Okay. And so which one did the poster of these
23 communications use, which VPN service?

24 A It was called Express VPN.

25 Q Okay. And what type of information was the online magazine

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1 collecting about the person who, the identity of the person who
2 was posting the comments?

3 A It would include the name, an e-mail address, and an IP
4 address.

5 Q And what, if anything, did the FBI determine about many of
6 the IP addresses that were seen in these posts?

7 A Many of the IP addresses came back to Express VPN.

8 Q And I want to direct your attention to the April 2018 time
9 frame.

10 Was there a comment post in particular that the FBI was
11 able to trace to a particular person not using a VPN?

12 A Yeah. I, I don't recall the specific date.

13 Q I'd like to turn your attention to Exhibit No. 5.

14 A Uh-huh (indicating an affirmative response).

15 Q And in the middle of that page there's an April 14, 2018
16 posting.

17 A Okay.

18 Q Who's the author identified in that posting?

19 A Gilbert Gillington, III.

20 Q And could you read the IP address?

21 A Sure. It's 45.27.239.102.

22 Q And does it identify the Internet service provider that is
23 responsible for that IP address?

24 A It does. It's listed as SBC Global.net.

25 Q And was the FBI able to obtain records from SBC Global.net?

FAHEY - DIRECT

1 A They were.

2 Q And what did they determine, if anything, about who the
3 subscriber was on April 14, 2018?

4 A That -- the subscriber to that IP address on that date was
5 Mr. Cardozo's mother.

6 Q What's her name?

7 A Deborah.

8 Q Deborah Cardozo?

9 A Correct.

10 Q And where -- did they have an address in the subscriber
11 records?

12 A I believe they did, yes.

13 Q And anything significant about that address?

14 A It was the address that Mr. Cardozo was currently living
15 at.

16 Q And did the FBI do anything else to connect the dots
17 between Mr. Cardozo and these various communications, big
18 picture?

19 A Yep.

20 Q Tell us some other things.

21 A There were times when the IP addresses that were making the
22 posts were the same IP addresses that were simultaneously
23 accessing Mr. Cardozo's known social medial accounts such as
24 Facebook.

25 Q Okay.

FAHEY - DIRECT

1 What about the content of these communications? Was there
2 anything about just sort of reading the content and the timing
3 that seemed significant?

4 A Yeah. The content of the, the messages seemed to indicate
5 that the, the writer was the person that the, the essay was,
6 was referring to.

7 Q And to your knowledge, has Jane Doe 1 received any
8 communications from Mr. Cardozo or, or anything like this since
9 Mr. Cardozo has been in custody since his arrest?

10 A Not to my knowledge.

11 Q I want to turn your attention to Jane Doe 2, who you talked
12 about earlier.

13 Where did she grow up?

14 A Florida.

15 Q And has she received any communications from Mr. Cardozo
16 over the years?

17 A She has.

18 Q Tell us about those.

19 A Similar to Jane Doe No. 1, she would receive periodic
20 communications from Mr. Cardozo from Facebook trying to
21 reconnect and re-establish their relationship.

22 Q Did he try any other methods other than Facebook?

23 A He sent a handwritten letter at one point.

24 Q Anything else?

25 A Not that I can recall.

FAHEY - DIRECT

1 Q Okay. And was he using his own names, typically --

2 A Uh-huh (indicating an affirmative response).

3 Q -- his own name, typically?

4 A He was.

5 Q And I want to direct your attention to -- well, before I
6 show you Exhibit No. 6 -- big picture, what were some of the
7 topics of these periodic communications over the course of how
8 many years?

9 A Approximately 15 years.

10 Q Okay. What's he saying?

11 A Apologizing for the way he treated her, expressing his
12 undying affection for her, and a desire to get back into her
13 life.

14 Q Okay.

15 I'd like to show you what's been marked as Exhibit No. 6,
16 which is a Facebook conversation between Jane Doe 2 and
17 Mr. Cardozo and marked as July of 2017. (Counsel shows exhibit
18 to the witness.)

19 And I want you to go -- I'd like to direct your attention
20 to Page 2 where it starts with the, "You promised me."

21 A Uh-huh (indicating an affirmative response).

22 Q Could you just indulge us and read all of the -- the -- the
23 -- I guess they're color coded --

24 A Okay.

25 Q -- sections on this page?

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1 And who's the speaker?

2 A This would be Jane Doe No. 2.

3 Q Okay.

4 A She wrote:

5 "You promised me you would stop doing this. You broke that
6 promise. Please stop for the last time. I do not have any
7 feelings for you and you continue under false names to harass
8 me to the point where I am forced to respond. That is not love
9 on your part. I do not have any ill feelings towards you
10 except when you continue this and it is only this that has made
11 me feel any. I do not want to experience this, again. You
12 have scared me enough. You do not accept no for an answer,
13 ever. That is abuse. Do not contact me again."

14 Q And then moving ahead, there's more, but I'm just going to
15 have you skip to the, to the next page, Page 3 of this exhibit,
16 beginning with the, "You know I was thinking."

17 A Uh-huh (indicating an affirmative response).

18 Q Who is speaking here? And could you please read the next
19 three entries?

20 A Certainly. This is Mr. Cardozo. (Reading):

21 "You know I was thinking back to when I had said everything
22 that needed to said and was ready to move on and then you
23 retaliated by putting a restraining order on me. LOL. You
24 created this situation. Blame me all you want, but you know
25 it's true, LOL, and it just feels so good to tell you how I

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1 really feel. The cops called me out of nowhere and said I was
2 harassing you when I clearly remember blocking you. I even
3 told him that. 'You blocked her,' he said in a confused tone.
4 'Yes, so I have no idea why she is calling for a restraining
5 order.' You fucked up my life even worse than it already had
6 been. I had cops stalking me for days, pounding on my door at
7 all hours. So fuck you. 'I do not want to experience this,
8 again. You have scared me enough.' Ha, ha." That was in
9 quotes. "Ha, ha, ha, ha, ha. Shit, don't make me laugh. I
10 could care less about you ill feelings towards me, you soulless
11 husk. You fucking deserve everything I have done and worse.
12 Now cry and feel sorry for yourself. 'Scared' of nothing I
13 will, I will ever do to you, fool."

14 Q And let's just -- it's more of the same -- but please skip
15 back down to the last entry --

16 A Uh-huh (indicating an affirmative response).

17 Q -- on that page.

18 A The one that begins with "Also"?

19 Q Yes, please.

20 A (Reading):

21 "Also, let's get the satanic, abusive, oppressive,
22 murdering-people-every-day police involved again because that
23 worked so fucking well last time, did it not?" And there's a
24 link to an article concerning a police officer who shot a
25 subject named Alton Sterling.

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1 Q Okay.

2 What does -- what, if anything, does Jane Doe 2 do to
3 respond? I mean -- actually, let's strike that. It's sort of
4 self-referential in there.

5 I want to turn your attention to another restraining order.
6 Are you aware of any other restraining orders? We talked about
7 Jane Doe 1 --

8 A Yep.

9 Q -- Jane Doe 2.

10 A I am.

11 Q Tell us about that.

12 A This would be a minor party referred to as Jane Doe 3.

13 Q Are you aware of her true identity?

14 A I am.

15 Q Where does she live?

16 A Florida.

17 Q And how does she know -- have you -- has the FBI had an
18 opportunity to interview Jane Doe 3?

19 A They have.

20 Q And any of her family members?

21 A Yes.

22 Q Who?

23 A Her father and her mother.

24 Q Okay. And what, if any, connection did she have to
25 Mr. Cardozo?

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1 A They were coworkers at a fast food restaurant.

2 Q Where?

3 A In Florida.

4 Q For how long?

5 A I'm not sure of the extent of when they worked together.

6 Q Years?

7 A No. It was months.

8 Q Okay. Would it be around a month? Does that sound --

9 A Yeah, yep.

10 Q -- accurate?

11 And approximately what time are we talking about?

12 A This would be 2017, I believe.

13 Q Could be early -- could it -- could it be late 2016?

14 A Yes.

15 Q I'll show you some exhibits --

16 A Yep.

17 Q -- if it'll help.

18 And how old was she at the time?

19 A She was 17 at the time.

20 Q And how old was Mr. Cardozo?

21 A He would have been approximately 30.

22 Q And how did Jane Doe 3 describe the attention she was
23 receiving early on from Mr. Cardozo?

24 A She felt it was uncomfortable and excessive. He was paying
25 a lot of attention to her like sexually interested.

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1 Q Okay. And who actually -- well, have you had an
2 opportunity to, to review any of the, the filings in connection
3 with the protective order?

4 A I have.

5 Q I want to draw your attention to what's been marked as
6 Exhibit No. 7. This is the Petition for Injunction for
7 Protection Against Repeat Violence against Mr. Cardozo filed
8 November 4, 2016?

9 A Uh-huh (indicating an affirmative response).

10 Q And is this Jane Doe 3 whose name is -- or it's actually --
11 is it Jane Doe 3 or is it a family member?

12 A The, the petition was filed by her mother on her behalf
13 because she was a minor.

14 Q And what, what happened? What led to this injunction?

15 A There were multiple instances at work where Mr. Cardozo
16 would physically assault Jane Doe No. 3. There was an instance
17 where she was standing at the cash register and he pushed her
18 out of the way. That was observed by multiple other parties,
19 including the restaurant manager.

20 There was an instance where he was in the back peeling
21 potatoes, told her to get away from him or he was going to hit
22 her, and he proceeded to throw the potato peeler at her.

23 There was an instance where she was speaking to a manager
24 and he approached her and grabbed her wrist and wouldn't let go
25 to the point that it caused bruising. And she reported that

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1 instance to the local police and management sent Mr. Cardozo
2 home that day.

3 Q Did anybody in her, in Jane Doe 3's family also work at the
4 restaurant?

5 A Her mother worked there.

6 Q Okay. And what was Jane Doe 3 and her mother's response to
7 this? Is that what led to the petition?

8 A Yes, correct.

9 Q Did they ultimately successfully obtain a permanent
10 injunction?

11 A They did.

12 Q I want to turn your attention to what's been marked as
13 Exhibit 8, which is the November 15, 2016 Final Judgment of
14 Injunction for Protection Against Repeat Violence.

15 What are the terms of this injunction?

16 A These are similar to the, the previous injunction. It
17 prohibits Mr. Cardozo from contacting Jane Doe No. 3 in any, in
18 any means or method. He's prohibited from harassing her,
19 stalking her, communicating with her, uh-huh.

20 Q And I want to direct your attention to Page 3, Paragraph 3
21 of Exhibit No. 8.

22 A Uh-huh (indicating an affirmative response).

23 Q What is that prohibition?

24 A (Reading):

25 "Respondent shall not use or possess a firearm or

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1 ammunition."

2 Q Okay.

3 And what was Mr. Cardozo's response, if any, to this
4 permanent injunction?

5 A He continued to contact her, call her, text her.

6 Q And you -- what were the nature of any of those
7 communications?

8 A They were threatening in nature. He --

9 Q Do you remember anything specific?

10 A He threatened to come to the restaurant and slit her
11 throat.

12 Q And what, if anything -- what of consequence, if anything,
13 happened?

14 A There, there was an injunct -- there was a finding of a
15 violation of the injunction.

16 Q Okay. I'd like to direct your attention to Paragraph,
17 Exhibit No. 9, which is a police report from November 9, 2016.

18 Is it fair to say that this describes some communications
19 between Mr. Cardozo and Jane Doe 3?

20 A It does.

21 Q And I'd like to direct your attention to Exhibit No. 10,
22 which is the February 24, 2017 *nolo contendere* judgment --

23 A Uh-huh (indicating an affirmative response).

24 Q -- against Mr. Cardozo.

25 So this is February 2017. And remind me when was the

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1 injunction entered?

2 A That was November of 2016.

3 Q So a few months earlier?

4 A Uh-huh (indicating an affirmative response).

5 Q Okay.

6 Did Jane Doe No. 3 describe any impact this had on her
7 life?

8 A Yes. She ended up leaving the employment. She -- it
9 scared her to be there.

10 Q During the course of your investigation were you able to
11 review any information about Mr. Cardozo's criminal history?

12 A I was.

13 Q What did you review?

14 A I reviewed police incident reports as well as his criminal
15 history.

16 Q Big picture, tell us about his criminal history.

17 A He's got multiple convictions to include violent offenses,
18 drug offenses. He's got the protection orders we've discussed,
19 violations of court orders. The -- he's got three felony
20 convictions, I believe. Two for assault, one for larceny.

21 Q Has he ever been in custody?

22 A He has.

23 Q More than once?

24 A Yes.

25 Q And does he have any -- did you mention probation

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1 violations? I don't remember. I'm not trying to put words in
2 your mouth.

3 A Yeah. I don't recall reading a probation violation.

4 Q Okay.

5 And have you had an opportunity to review any police
6 reports other than Exhibit No. 10 that I just showed you?

7 A I have.

8 Q I want to direct your attention to June 2016 and Exhibit
9 No. 11, please.

10 So this is a June 5, 2016 police report from the
11 Jacksonville Sheriff's Office regarding a battery on a licensed
12 security officer. Have you had an opportunity to read this
13 police report?

14 A I have.

15 Q And tell us about it. What happened?

16 A Essentially, a police officer was working at the hospital
17 in an off-duty capacity and he was called for assistance to one
18 of the hospital rooms. When he arrived he observed Security
19 and hospital staff attempting to restrain Mr. Cardozo.
20 Mr. Cardozo was fighting, threatening the staff, attempting to
21 bite the people who were trying to hold him down. He was
22 aggravated. He was threatening. He recognized the officer
23 when he arrived and directed some negative law enforcement
24 comments towards him.

25 Q Like what did he say, if you remember?

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1 A "There's a special place in hell for cops. I'm going to
2 sue you. I should spit on you."

3 Q Okay.

4 And I want to direct your attention to the last paragraph
5 of the second page of Exhibit 11.

6 A Uh-huh (indicating an affirmative response).

7 Q Could you please read that where it starts, "A local
8 records check"?

9 A (Reading):

10 "A local records check of the suspect only revealed his
11 Baker Act on 6/1/16, CCR 354983, where he resisted officers'
12 attempts to take him into custody after abusing synthetic
13 drugs. The suspect is a convicted felon for grand theft and
14 battery, two times. The suspect has numerous arrests in South
15 Florida. A complete criminal history was not available at the
16 time of this report."

17 Q And, Special Agent Fahey, do you, have you had an
18 opportunity to familiarize yourself with the term "Baker Act"?

19 A I have.

20 Q What does that mean?

21 A From my understanding, a Baker Act in Florida is a
22 involuntary committal of a subject who poses a risk to himself
23 or others and is unable to seek services through their own,
24 through their own decision.

25 Q And are you aware whether during the course of the FBI's

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1 investigation of Mr. Cardozo they were conducting surveillance
2 of him leading up to the day of his arrest?

3 A They were.

4 Q And could you tell us what, if anything, they observed him
5 doing while they were surveilling him?

6 A On one occasion they observed him, him and his father,
7 attend a firing range, a firearms range in Florida.

8 Q And I'd like to direct your attention to Exhibit No. 12.

9 A Uh-huh (indicating an affirmative response).

10 Q Is this a photograph showing Mr. Cardozo and his dad at the
11 firing range?

12 A It is.

13 Q And what is Mr. Cardozo holding in his hand?

14 A A firearm, a handgun.

15 Q One moment.

16 A Uh-huh (indicating an affirmative response).

17 (Pause)

18 MS. SEDKY: I have nothing further, your Honor.

19 THE COURT: Cross-examination?

20 CROSS-EXAMINATION

21 BY MS. PEACHY:

22 Q Good morning, or afternoon, Agent Fahey.

23 A Good morning -- good afternoon.

24 Q So you were just talking about the 2016 incident where
25 Mr. Cardozo assaulted a police officer in the hospital,

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1 correct?

2 A Correct.

3 Q And he was -- you described the Baker Act, correct?

4 A I did.

5 Q And at the time of that assault on a police officer that's
6 when Mr. Cardozo was, in fact, involuntarily committed,
7 correct?

8 A I'm not certain if that was the reason for his -- his
9 commission -- his --

10 Q He's in the hospital --

11 A Yep.

12 Q -- correct?

13 A Yep.

14 Q The date of the incident is 6/5/16 --

15 A Correct.

16 Q -- correct?

17 That paragraph that you read at the bottom of the report
18 said that he was Baker Acted on 6/1/16, correct?

19 A Correct.

20 Q Okay. Do you have any information about what his mental
21 health diagnoses was at the time?

22 A I do not.

23 Q Do you have any information about what kind of medications
24 he was receiving at the time?

25 A I do not.

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1 Q Do you have any information if he was under the influence
2 of any illegal drugs at the time?

3 A I do not.

4 THE COURT: Ms. Peachy, are you saying that the, he
5 was in this hospital subject to this commitment?

6 MS. PEACHY: Yes.

7 THE COURT: Okay.

8 BY MS. PEACHY:

9 Q You also mentioned a, these communications with the woman
10 referred to as Jane Doe 3 in 2016.

11 A Uh-huh (indicating an affirmative response).

12 Q You testified on direct examination that she said that
13 Mr. Cardozo threatened to come to the restaurant and slit her
14 throat?

15 A Correct.

16 Q When did Jane Doe No. 3 tell you that?

17 A That was during the -- she was interviewed within the last
18 week.

19 Q So she told that to an agent this, sometime during this
20 past week?

21 A Yes.

22 Q You've reviewed the documents in Government Exhibits, I
23 guess it's, say, 7, 8, and 9, correct, pertaining to Jane Doe
24 No. 3?

25 A I have.

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1 Q And 10, I guess. Those are the, those are the exhibits
2 that pertain to Mr. Cardozo's interactions with Jane Doe No. 3,
3 correct?

4 A Correct.

5 Q Exhibit 7 and 8 are the petitions for -- well, Exhibit 7 is
6 a petition for an injunction against Mr. Cardozo, correct?

7 A Correct.

8 Q In which she and/or her mother, I guess, who's moving for
9 the injunction on her behalf, described the basis for the
10 request, correct?

11 A Uh-huh, correct.

12 Q And nowhere in there is, is there any mention of
13 Mr. Cardozo threatening to slit her throat, is there?

14 A There was not.

15 Q And in Exhibit No. 9, the police report regarding contact
16 that Mr. Cardozo had with Jane Doe No. 3 after she applied for
17 the injunction, she doesn't tell the police in that police
18 report that Mr. Cardozo ever threatened to slit her throat,
19 does she?

20 A She does not.

21 Q So nowhere in the documents created at the time does Jane
22 Doe No. 3 mention Mr. Cardozo threatening to slit her throat?

23 A She did not.

24 Q It was only until a week ago that she said that?

25 A Correct.

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1 Q I also want to ask you some questions about Jane Doe No. 2,
2 who's described as Beth, I believe you said, in Jane Doe No.
3 1's essay, correct?

4 A Correct.

5 Q She was Jane Doe 1's friend in high, in middle school and
6 high school, correct?

7 A Correct.

8 Q In that essay that Jane Doe 1 published online about her
9 experiences when she was 13 years old she talks about recent
10 communications she has with Beth, or Jane Doe No. 2 --

11 A Uh-huh (indicating an affirmative response).

12 Q -- correct?

13 A Correct.

14 Q So in preparation for writing this essay Jane Doe No. 1
15 reaches out to Jane Doe No. 2, correct?

16 A Correct.

17 Q They talk about Chad, or Mr. Cardozo, correct?

18 A Correct.

19 Q And in the essay published by Jane Doe No. 1 where she's
20 describing getting back in touch with Jane Doe No. 2 she
21 describes how she asked Jane Doe No. 2 specifically, "Do you
22 feel that he assaulted you," correct? Remember that part of
23 the essay?

24 A I don't recall that specific part.

25 Q Okay.

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1 (Pause)

2 MS. PEACHY: May I approach?

3 THE COURT: Yes.

4 MS. PEACHY: Okay.

5 BY MS. PEACHY:

6 Q Agent Fahey, I'm showing you a document, first of all.

7 (Counsel shows document to the witness.)

8 A Uh-huh (indicating an affirmative response).

9 Q Do you recognize what that is?

10 A I do.

11 Q That's the essay published by Jane Doe No. 1 --

12 A It is.

13 Q -- correct?

14 A Yep.

15 Q Okay. That we're talking about.

16 And directing your attention to Page 13 down here at the
17 bottom.

18 A Yep.

19 Q That's the part where Jane Doe No. 1 is describing getting
20 back in touch with Jane Doe No. 2 to talk about Mr. Cardozo --

21 A Yep.

22 Q -- correct?

23 A Yep.

24 Q And on the next page the last two lines of the
25 correspondence described there says, "Do you feel that he

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1 assaulted you," correct?

2 A Correct.

3 Q And then the response is, "No," she says. "I think he only
4 ever wanted love," correct?

5 A Correct, correct.

6 Q That's the response from Jane Doe No. 2?

7 A Yep.

8 Q Okay.

9 And did Mr. -- during the time period that Mr. Cardozo was
10 communicating with Jane Doe online, the communications in
11 Government Exhibit 6 that you read from, did Mr. Cardozo ever
12 try to get in touch with her in person?

13 A No.

14 Q Did --

15 A Not that I'm aware of.

16 Q Okay. He didn't try to seek her out in person in any way,
17 correct?

18 A No. Correct.

19 Q And their, their communications were limited to the
20 Internet, correct?

21 A Correct.

22 Q As part of the FBI's investigation did you look up whether
23 Mr. Cardozo has purchased any firearms?

24 A I'm not aware of that, if that check has been conducted.

25 Q Or if he's a registered owner of any firearms?

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1 A I'm not aware of that.

2 Q Are you aware that the FBI searched the apartment
3 Mr. Cardozo was staying in when he was arrested?

4 A I am.

5 Q Okay. They had a search warrant, correct?

6 A Uh-huh (indicating an affirmative response).

7 Q Did they find any firearms in his apartment?

8 A No.

9 Q Did they find any weapons of any kind in his apartment?

10 A Not that I'm aware of.

11 Q And you said you've reviewed Mr. Cardozo's criminal
12 history, correct?

13 A I have.

14 Q And there's nothing on his record relating to the use of
15 firearms, correct?

16 A No, not that I can recall.

17 Q Or weapons?

18 A Nope.

19 Q Moving on to Jane Doe No. 1 now, you mentioned that she
20 hired a private attorney?

21 A Yes.

22 Q And you've reviewed the indictment in this case, correct?

23 A I have.

24 Q Is that the representative of Jane Doe 1 referenced in the
25 indictment?

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1 A I would have -- I'm not sure of the context of that.

2 Q Okay. I'm look -- do you have the indictment?

3 A No.

4 Q No? Okay.

5 Okay. I'm looking at Paragraphs 15 and 21. (Counsel shows
6 document to the witness.)

7 I'm looking at Paragraphs 15 and 21 of the indictment.

8 A Okay.

9 Q So in those paragraphs it says that "a representative of
10 Jane Doe 1 notified legal authorities about communications she
11 was receiving from Cardozo," correct?

12 A Correct.

13 Q In both those paragraphs is the representative mentioned
14 there Jane Doe's attorney that she hired?

15 A Yes, I believe it is.

16 Q And who are the "legal authorities" that the attorney
17 notified on those occasions?

18 A I believe it was his probation officer or --

19 Q Okay. Not the police?

20 A No, I don't believe so.

21 Q So neither Jane Doe nor the, her hired attorney contacted
22 the police in those months?

23 A Not that I can recall.

24 Q At what point were the police contacted about this?

25 A I know there was the, the injunction was sought, but --

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1 Q Were the police involved in the injunction?

2 A No. I, I don't recall.

3 Q Okay. Who originally contacted the FBI?

4 A I don't recall.

5 Q Okay.

6 So Jane Doe's attorney contacts Mr. Cardozo's probation
7 officer for the purpose of, what, telling the probation officer
8 that that person, they think that he's in violation of his
9 probation?

10 A I believe so, yes.

11 Q And Jane Doe No. 1 actually filed an affidavit that the --
12 to the pro -- sent an affidavit to the probation officer,
13 correct?

14 A I haven't read that.

15 Q Did the probation office -- did Mr. Cardozo's probation
16 officer bring forth a violation based --

17 A Yes.

18 Q -- on his communications with Ms., with Jane Doe No. 1?

19 A Yes.

20 Q And that was heard before a judge in Florida, correct?

21 A Yes.

22 Q And the judge discharged the violation, correct?

23 A Correct.

24 Q And terminated Mr. Cardozo's probation, correct?

25 A I, I'm not sure if the termination of the probation was at

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1 the same time as the discharging.

2 Q Basically, the judge -- I mean, we use different
3 terminology here -- but basically, the judge dismissed the
4 violation --

5 A Yes.

6 Q -- correct?

7 A Yes.

8 Q Okay.

9 At some point the FBI did speak to Jane Doe No. 1, correct?

10 A Correct.

11 Q Was her attorney with her?

12 A I'm not aware.

13 Q Okay.

14 You mentioned the -- we, we were talking about the
15 restraining order that Jane Doe No. 1 obtained against
16 Mr. Cardozo, or injunction as they call it in Florida, and
17 that's contained in, in Government Exhibit 4.

18 Does that indicate whether Mr. Cardozo came to court for
19 the hearing on that injunction?

20 A It --

21 Q On the, on the first page?

22 A Correct. It, it indicates he was not present.

23 Q Okay.

24 And going to the last page of that order is there any
25 acknowledgment by Mr. Cardozo of receiving that restraining

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1 order at that time?

2 A There is not.

3 Q Okay. So he didn't go to court in Florida when, when Jane
4 Doe No. 1 went to court in Florida to seek the restraining
5 order, correct?

6 A Correct.

7 Q Even though he would have received notice of the hearing,
8 correct?

9 A Yes.

10 Q Okay. You mentioned that in the time period between 2001,
11 I think it was, and 2015 that Mr. Cardozo reached out
12 periodically over Facebook to Jane Doe No. 1?

13 A He did, yep.

14 Q So Jane Doe No. 1 tells you that Mr. Cardozo initiated
15 contact between them?

16 A He did.

17 Q Do you have -- has the FBI obtained those Facebook messages
18 going back to, prior to 2015?

19 A I'm not certain if the FBI has copies of those.

20 Q Okay.

21 Now Jane Doe No. 1, you said, decided to correspond with
22 Mr. Cardozo for purposes of writing this essay, correct?

23 A Correct.

24 Q And again, in her essay that she publishes online she
25 describes the correspondence that she has with Mr. Cardozo just

FAHEY - CROSS

1 prior to writing the essay, correct?

2 A Correct.

3 Q She describes things that Mr. Cardozo told her about
4 himself in those correspond, in that correspondence, correct?

5 A Correct.

6 Q Like how he's struggled with drug problems, correct?

7 A Correct.

8 Q How he's been arrested and, and in jail, correct?

9 A Correct.

10 Q And he -- in those -- in that correspondence before the
11 essay was published Mr. Cardozo was not threatening in any way,
12 correct?

13 A Correct.

14 Q He was not harassing her in any way, correct?

15 A Correct.

16 Q And, as you said, he gave her permission to write the
17 story, correct?

18 A He did.

19 Q Before she published the story online did she show it to
20 Mr. Cardozo?

21 A I'm not aware.

22 Q Okay. She published it on a public website, correct?

23 A She did.

24 Q In which -- and in the essay she doesn't call him a rapist,
25 but she basically describes him that way, fair to say?

FAHEY - CROSS

1 A She, she describes the sexual encounter from her --

2 Q As nonconsensual --

3 A -- perspective.

4 Q -- and forceful, forced, you said?

5 MS. SEDKY: Objection.

6 THE COURT: I'm sure it says something. I don't have

7 it, but --

8 BY MS. PEACHY:

9 Q Well, in direct you said she describes the sexual encounter
10 as forced --

11 A She did.

12 Q -- correct?

13 A Correct.

14 Q Nonconsensual, fair to say?

15 A Fair to say.

16 Q Okay.

17 A Yep.

18 Q Are you aware that on other websites Jane Doe No. 1 has
19 expressed doubts about whether or not her memory of the
20 incident was accurate?

21 A I'm not aware of that.

22 Q Are you aware that on some other websites she's said that
23 some of her own family members doubt that it happened the way
24 she described?

25 A I'm not aware of that.

FAHEY - CROSS

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1 Q You're aware that Mr. Cardozo wrote his own version, his,
2 of what happened back in 2001, correct?

3 A I've seen messages that he's posted --

4 Q Okay.

5 A -- detailing his, but I haven't seen an openly authored
6 account.

7 Q So the messages that you've seen are Facebook messages?

8 A They're the comments that were posted to the article.

9 Q Okay. So in the Comments section of the article
10 Mr. Cardozo wrote his recollection of what happened between him
11 and Jane Doe No. 1 in the car in 2001, correct?

12 A Correct.

13 Q The way he remembers it is different than the way she
14 remembers it, fair to say?

15 A Fair to say.

16 Q Now Mr. Cardozo, as far as you're aware, since, since they,
17 him and Jane Doe were in the same high school-middle school,
18 has not had physical contact with Jane Doe, correct?

19 A Correct.

20 Q He has not tried to find out where she lives?

21 A Correct.

22 Q As far as you're aware, correct?

23 A Correct.

24 Q Has he ever asked her where she lives?

25 A Not that I'm aware of.

FAHEY - CROSS

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1 Q He's never tried to have physical contact with her, as far
2 as you're aware, correct?

3 A Correct.

4 Q As far as you're aware, he never left the State of Florida
5 during this time period when he's sending these messages,
6 correct?

7 A Correct.

8 Q Again, his, his contact with Jane Doe No. 1 was all online,
9 correct?

10 A Correct.

11 Q They never even spoke on the phone, correct?

12 A Correct.

13 Q And he never tried to have anyone have physical contact
14 with her on his behalf, correct?

15 A Correct.

16 Q Never sent anyone out to try to find her or have contact
17 with her, correct?

18 A Correct.

19 Q But, but she did, correct?

20 A I don't know if she intended to have someone physically
21 contact him on her behalf.

22 Q You said she, she hired a private investigator, correct?

23 A Correct.

24 Q Called Apache Investigations, correct?

25 A I'm not sure of the, the company name.

FAHEY - CROSS

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1 MS. SEDKY: Objection. She's misstating the witness'
2 testimony.

3 MS. PEACHY: I was asking a question.

4 THE COURT: I think it -- I -- my memory is that a
5 family member hired an investigation firm to survey --

6 MS. PEACHY: Right.

7 THE COURT: -- to surveil him.

8 MS. PEACHY: I was just asking the question if he knew
9 the name.

10 THE WITNESS: Uh-huh (indicating an affirmative
11 response).

12 BY MS. PEACHY:

13 Q So you don't know the name of the private investigation
14 firm?

15 A I don't.

16 Q These private investigators followed Mr. Cardozo, correct?

17 A I believe so.

18 Q They spoke -- the private investigators also spoke to
19 Mr. Cardozo's probation officer?

20 A I'm not aware of that.

21 Q The private investigators detained an Uber driver who had
22 just dropped Mr. Cardozo off, correct?

23 A Correct.

24 Q As a result of that incident Mr., the private investigator
25 was actually charged criminally, correct?

FAHEY - CROSS

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1 A I know there was an investigation into that incident. I'm
2 not, I wasn't aware of the results.

3 Q Okay. Have you reviewed the police report pertaining to
4 that incident?

5 A I have not.

6 Q Okay.

7 Did you ask Jane Doe No. 1 about that incident?

8 A Of the Uber driver incident?

9 Q Yes.

10 A I'm not aware that she was asked that question.

11 Q Okay. But she was asked about another incident with the
12 private investigator where the private investigator or
13 investigators beat up Mr. Cardozo, correct?

14 MS. SEDKY: Objection.

15 THE COURT: Overruled.

16 BY MS. PEACHY:

17 Q Right?

18 A Yes.

19 Q She was asked about that, right?

20 A Yep.

21 Q How did the FBI find out about that?

22 A I'm, I'm not aware of who initially --

23 Q Did Jane Doe --

24 A -- reported it?

25 Q -- No. 1 tell the FBI about it or did the FBI find about,

FAHEY - CROSS

1 out about it some other way?

2 A I'm not sure.

3 Q That incident where the private investigators beat up
4 Mr. Cardozo was described in direct examination as a
5 "confrontation" between Mr. Cardozo and the private
6 investigators, you recall that?

7 A I do.

8 Q The private investigators went to Mr. Cardozo's home,
9 correct?

10 A I believe that's where the, it occurred, yeah.

11 Q The assault happened at his home --

12 A Uh-huh (indicating an affirmative response).

13 Q -- correct?

14 A Uh-huh (indicating an affirmative response).

15 Q Are you aware of anything that Mr. Cardozo did to instigate
16 the private investigators?

17 A No.

18 Q Are you aware of the extent of Mr. Cardozo's injuries from
19 that assault?

20 A Other than the, the message that I read referring to \$8,000
21 worth of medical bills.

22 Q Are you aware of a state prosecution pertaining to that
23 assault on Mr. Cardozo?

24 A I'm aware of an investigation. I'm not aware of a
25 prosecution.

FAHEY - CROSS

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1 Q Have the FBI agents spoken to the Florida detective who's
2 in charge of those investigations?

3 A They have.

4 Q Okay. Have they spoken to the prosecutor who's in charge
5 of prosecuting those offenses?

6 A I'm, I'm not aware of that.

7 Q Okay.

8 You mentioned that the FBI did some surveillance of
9 Mr. Cardozo and that's how they were able to take that picture
10 of Mr. Cardozo in the shooting range, correct?

11 A Correct.

12 Q Apache was also doing surveillance on Mr. Cardozo, correct?

13 A Yes.

14 Q Did the FBI surveillance of Mr. Cardozo overlap with
15 Apache's investigation of Mr. Cardozo?

16 A I'm unaware.

17 Q Did Jane Doe continue to retain Apache Invest, the, these
18 private investigators after they beat up Mr. Cardozo?

19 A I'm unaware.

20 Q Have you seen any contract or correspondence between Jane
21 Doe No. 1 and these private investigators that sets forth the
22 extent of her agreement with the private investigators?

23 A I have not.

24 Q But she told the FBI agents that she did not ask them to
25 beat up Mr. Cardozo, correct?

FAHEY - CROSS/REDIRECT

1 A Correct.

2 Q Do you have any indication about why the private
3 investigators would have beaten up Mr. Cardozo?

4 A I don't.

5 Q Did she tell you how much she hired these private
6 investigators for?

7 A No, I don't believe so.

8 Q Do you -- are you aware if, if Jane Doe No. 1 has been
9 interviewed by the Jacksonville Police who are investigating
10 these incidents?

11 A I'm not aware.

12 Q Or if she's cooperating with them in that case --

13 A I'm unaware.

14 Q -- those cases?

15 If Mr. Cardozo is released in this case, will Jane Doe
16 continue to retain these private investigators?

17 A I don't know.

18 MS. PEACHY: I have nothing further.

19 MS. SEDKY: Just a few follow-up questions, your
20 Honor, if I may.

21 THE COURT: Okay.

22 REDIRECT EXAMINATION

23 BY MS. SEDKY:

24 Q Special Agent Fahey, in terms of the timeline when Ms. Jane
25 Doe 3 was being interviewed by the FBI, was that within the

FAHEY - REDIRECT

1 last, say, two weeks?

2 A It was.

3 Q And did Ms., did Jane Doe 3 give you any indication of when
4 Mr. Cardozo threatened to slit her throat in the timeline?

5 A I believe she said that it was in response to the
6 injunction.

7 Q And by "injunction," do you mean the permanent injunction
8 or the earlier preliminary injunction?

9 A I'm uncertain.

10 Q Okay. So I just want to refresh your recollection about
11 the date of the, the petition for Exhibit 7 is dated November
12 4th and the final injunction goes in November 15th, is that
13 correct?

14 A Correct.

15 Q Now the police report, which is Exhibit 9, is November 9th,
16 is that correct?

17 A Correct.

18 Q So that's before the final injunction?

19 A It is.

20 Q So if, if, hypothetically, the threats came in after the
21 final injunction, they would not have been in this police
22 report, is that fair to say?

23 A Correct.

24 Q And is it also fair to say that the FBI at this juncture
25 has not been able to obtain every single police report

FAHEY - REDIRECT

1 involving Mr. Cardozo?

2 A That's correct.

3 Q And is it also fair to say that, in all candor, the FBI
4 does not know exactly how it was that Mr. Cardozo violated that
5 final injunction? Is that fair to say?

6 A That's correct.

7 Q All we -- all the FBI knows is that he, in fact, pled *nolo*
8 *contendere* several months later to violating it?

9 A Correct.

10 Q Are you aware of a -- do you know what a Certificate of
11 Service is, a proof of service?

12 A Yes.

13 Q And are you aware whether in the course of the FBI's
14 investigation they have obtained from the victims a Certificate
15 of Service proving that Mr. Cardozo was, in fact, served with
16 the final injunctions?

17 A I'm unaware. I haven't seen one.

18 Q And, Special Agent Fahey, Ms. Peachy was asking you about
19 the attempts by Jane Doe 1's attorneys to petition for, for
20 Mr. Cardozo's community confinement to be withdrawn. Do you
21 recall that line of questioning?

22 THE COURT: Can I have that again?

23 THE WITNESS: No.

24 THE COURT: I, I didn't understand the question.

25 MS. SEDKY: I thought there was a -- okay. I withdraw

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1 the question, then.

2 I have nothing further.

3 MS. PEACHY: Nothing further.

4 THE COURT: Anything further?

5 MS. PEACHY: No.

6 THE COURT: You may step down.

7 THE WITNESS: Thank you.

8 THE COURT: Does the Government have any further
9 evidence?

10 MS. SEDKY: No further evidence from the Government,
11 your Honor.

12 THE COURT: Okay.

13 Does the defendant have any evidence?

14 MS. PEACHY: Yes, your Honor. We're going to call my
15 investigator, Kevin Rickel.

16 THE COURTROOM DEPUTY: Please raise your right, please
17 raise your right hand.

18 KEVIN RICKEL, DEFENSE WITNESS, SWORN

19 THE COURTROOM DEPUTY: Please be seated. Please state
20 your full name, spelling your last name for the record.

21 THE WITNESS: It's Kevin Rickel. It's R-I-C-K-E-L.

22 DIRECT EXAMINATION

23 BY MS. PEACHY:

24 Q Okay, Mr. Rickel. How are you employed?

25 A I'm employed as an investigator at the Federal Public

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1 Defender Office.

2 Q Okay. Fair to say we work in the same office --

3 A Yes.

4 Q -- correct?

5 A Yes, we do.

6 Q Did I ask you to assist me in Byron Cardozo's case

7 recently?

8 A Yes, you did.

9 Q Okay. As part of your job in assisting in Mr. Cardozo's
10 case did you speak to a detective in Jacksonville, Florida?

11 A Yes, I did.

12 Q What was the name of that detective?

13 A Bill Fitzgerald.

14 Q Okay. And why did you contact that detective?

15 A I contacted him to, to try to obtain some copies of
16 incident reports from his department related to some recent
17 arrests of a private investigator by the name of David
18 Gonzalez.

19 Q Okay. And what did the detective tell you about obtaining
20 those police reports?

21 A He said that he felt more comfortable for our office to
22 contact the state attorney that was handling the cases before
23 releasing any reports.

24 So he just gave me the case numbers of two arrests of David
25 Gonzalez and asked me to, asked our office to contact the state

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1 attorney.

2 Q Okay. And were you able to obtain police reports for these
3 two incidents?

4 A For the -- through the state attorney?

5 Q Eventually, were you able to obtain both police reports?
6 Not through the --

7 A I think there was a --

8 Q -- state attorney, in any way?

9 A Right. I believe there -- well, I believe only one of the
10 police reports are --

11 Q Were you able -- so you were able to obtain one police
12 report through the state's attorney's office?

13 A Not through the state's attorney's office.

14 Q Okay. Were you able to -- were, were any police reports
15 obtained through the state's attorney's office?

16 A No.

17 Q Okay. How did you obtain the police reports?

18 A There was a police report that was available publicly
19 online through the Duval Circuit Court website.

20 Q Okay. I'm going to show you Exhibit 1, which is --
21 (Counsel shows exhibit to the witness.)

22 A Sorry.

23 Q Do you recognize that?

24 A Yes. Yes, I do.

25 Q And what is it?

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1 A It's the police report that was obtained off of the Duval
2 County court website pertaining to an arrest of David Gonzalez.

3 Q And just briefly, what does the, what does the, those court
4 documents describe?

5 A It's a report related to David Gonzalez stopping an Uber
6 driver to question him related to Byron Cardozo.

7 Q And does it say how Mr. Gonzalez was employed at the time?

8 A Does it say in this report?

9 Q Did you learn at some point, whether or not it'd be from
10 those papers, how Mr. David Gonzalez was employed at the time?

11 A Yes, I did.

12 Q And how is he employed?

13 A He's employed as a private investigator with a firm by the
14 name of Apache Investigations.

15 Q Okay. And relating to that same incident described in, in
16 the Defense Exhibit 1 are you aware of whether or not charges
17 have been filed against Mr. Gonzalez in relation to that
18 incident?

19 A Yes, they have. I've been told they have.

20 Q Okay. And those charges remain pending, correct?

21 A As far as I'm aware, yes.

22 Q Okay. Are you aware of what the charges are that were
23 brought against Mr. Cardozo?

24 A I was told by Detective Fitzgerald that it was
25 impersonating a police officer, but I don't know if that's the

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1 specific charge that's --

2 Q I'm sorry.

3 A -- stated on the paper.

4 Q Mr. Gonzalez. I'm sorry.

5 A I'm sorry.

6 Q I said Cardozo by mistake.

7 A Oh, sorry.

8 Q Okay.

9 Were you able to obtain a police -- were -- were you -- did
10 you also obtain some documents from Mr. Cardozo's father?

11 A Yes. He sent some documents to our office, yes.

12 Q Okay. I'm showing you Exhibit No. 2. (Counsel shows
13 exhibit to the witness.)

14 A Yes.

15 Q Do you recognize that?

16 A Yes, I do.

17 Q And is that a -- fair to say that's a Jacksonville police
18 report, correct?

19 A Jacksonville Sheriff's Office.

20 Q And what does that police report describe, generally?

21 A It's describing an assault that occurred on Mr. Cardozo,
22 Byron Cardozo.

23 Q Okay. And does it -- when you spoke to Detective
24 Fitzgerald about this incident did he tell you who the, who
25 they suspect was responsible for that assault?

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1 A Yes. He said both incidents, they suspected David
2 Gonzalez.

3 Q The -- the person --

4 A The private investigator.

5 Q -- the private investigator, correct?

6 Does that police report match the incident number that
7 Detective Fitzgerald gave you, if you can recall?

8 A Yes, it does.

9 Q Okay. Are you aware of whether charges have been filed
10 against Mr. Gonzalez for the beating on Mr. Cardozo described
11 there?

12 A My understanding from Detective Fitzgerald is that charges
13 have not yet been filed as of the time that I had spoken to
14 him.

15 Q Did he explain why?

16 A He said that they were eager to pursue the case, but
17 they -- because of -- I believe he said because of a Speedy
18 Trial Act in Florida they were concerned that Mr. Cardozo would
19 not be available as a witness. So they were still deciding
20 what to do with the case as of the time I spoke with him.

21 Q Okay.

22 Did Mr. Cardozo's father send any additional documents?

23 A Yes, he did.

24 Q Okay.

25 I'm showing you Exhibit 3 and 4. (Counsel shows exhibits

RICKEL - DIRECT

1 to the witness.)

2 A Yes.

3 Q Exhibit 3 contains medical bills, correct?

4 A Yes, it does.

5 Q For Byron Cardozo, correct?

6 A Correct.

7 Q And the date of service on those bills, many of them
8 correspond to the date of the assault in Exhibit 2, correct?

9 A Yes.

10 Q And other bills correspond to the date of surgery described
11 in Exhibit 4, correct?

12 A Yes.

13 Q Okay. And the surgery is for a fractured orbital bone,
14 correct?

15 A Yes.

16 Q And it describes that, in that brief report, it describes
17 that that was the result of an assault?

18 A Let's see.

19 Q An altercation?

20 A Correct, yes.

21 Q Okay. Did Mr. Cardozo's mother send you anything relating
22 to her son?

23 A She sent some photographs to our office, yes.

24 Q Okay.

25 I'm showing you Exhibit 5. (Counsel shows exhibit to the

RICKEL - DIRECT

1 witness.)

2 A Just those two, yeah. Yes.

3 Q Those are some of the photographs that Deborah Cardozo,
4 Mr. Cardozo's mother, sent, sent to our office, correct?

5 A Yes, she did.

6 Q And she explained that those photographs are photographs of
7 Mr. Cardozo in the hospital after he was assaulted, correct?

8 A That's what she said, yes.

9 Q Okay.

10 MS. PEACHY: I don't have anything further, your
11 Honor.

12 MS. SEDKY: Nothing from the Government, your Honor.

13 THE COURT: You may step down.

14 THE WITNESS: Thank you.

15 THE COURT: Any further evidence?

16 MS. SEDKY: Nothing from the Government, your Honor.

17 THE COURT: All right.

18 MS. PEACHY: Nothing further, your Honor.

19 THE COURT: You want to be heard?

20 MS. PEACHY: Oh, yeah. I had one other exhibit that I
21 submitted to the Court, your Honor. It's a letter regarding
22 employ --

23 THE COURT: I see.

24 MS. PEACHY: -- employment opportunity for Mr. Cardozo
25 should he be released.

1 THE COURT: I'm assuming that's his father?

2 MS. PEACHY: Yes.

3 THE COURT: Is that right?

4 MS. PEACHY: It's with his father, yes.

5 THE COURT: Right. Okay.

6 I'll hear from the Government.

7 MS. SEDKY: Thank you, your Honor. Yes.

8 Your Honor, the Government is moving for Mr. Cardozo
9 to be detained under two bases; first, that he's a risk of
10 flight under 3142(f)(2)(A). Mr. Cardozo has been transient.
11 He has not had any full-time employment that extended more
12 than, from what the Government could tell, a year. He worked
13 for approximately a year in 2015 according to the Pretrial
14 Services report at a place called Tijuana Flats -- it's unclear
15 what that is -- and a year at Five Guys in 2016. As the Court
16 has heard, that was employment that was terminated included a,
17 an assault on a, on a teenage girl. He has, now has an offer
18 of employment from his father with a claim that he will be some
19 type of manager, but it is unclear what type of actual work
20 duties Mr. Cardozo would be able to conduct.

21 Thus, he has no consistent source of income and he has
22 no stable home. He's been living with his mother and then his
23 father in his mid-30s. He's also been in and out of jail, as
24 the Court has heard.

25 He's also a flight risk because of the nature of the

1 offense. It's an offense that inherently involves deceit.
2 Your Honor heard about the use of aliases, heard about the use
3 of anonymizing devices, including techniques to keep himself
4 anonymous online, VPNs to allow him to contact the victims in
5 this case without detection, and just one mistake where he used
6 his mother's IP address and failed to obscure it through a VPN.
7 And your Honor saw the example of that. That is indicative of
8 many of the kinds of investigations we have in cybercrime cases
9 where there is significant obfuscation of identity,
10 anonymization, and then, fortunately, often one mistake, but it
11 makes these cases very hard to investigate and is an example of
12 why Mr. Cardozo remains a flight risk.

13 There's also significant -- the weight of the evidence
14 in this case weighs in favor of detention and is a reason why
15 he's a flight risk. Your Honor had heard about both the
16 circumstantial around the, the time and the comments of the
17 things that Mr. Cardozo was saying when he was anonymous and
18 then the forensic evidence that tied the cyberstalking and the
19 interstate threats directly to Mr. Cardozo. Given his criminal
20 history category and the combination of the sentencing
21 guidelines, Mr. Cardozo's likely facing a term of years of
22 incarceration and that contributes to the, the flight risk.

23 Second, your Honor, there is a risk, a significant
24 risk in this case of obstruction of justice by threatening and
25 intimidating witnesses under 3142(f)(2)(B). That's another

1 reason why Mr. Cardozo should be detained. The very nature of
2 this offense involves significant threats to witnesses. And
3 I'll read to your Honor from Paragraph 31 of the indictment,
4 which is the threat that's also charged in the charging
5 document. Mr. Cardozo posted a comment on the victim's website
6 saying:

7 "You fucking bitch. Keep it up and you will know what
8 it means to be assaulted. You are fucking done. I
9 dare you to keep pulling this shit. I fucking dare
10 you, bitch. You will know fear, trust me. By the
11 time this shit is over, you will be wishing you just
12 ignored it. You will fucking find out what happens
13 when you cry wolf, bitch."

14 This is an example of many of the, the graphic and,
15 frankly, alarming messages that your Honor has heard in court
16 this morning and that are in the Government's exhibits. While
17 Mr. Cardozo did not travel physically to see Jane Doe 1, this
18 is precisely the type of crime that is, is charged in, in the
19 case. It's cyberstalking. It's not assault. It's online
20 communications to threaten, to injure, and to cause fear, which
21 he very much did.

22 Your Honor, we see a number of examples in the
23 exhibits here of Mr. Cardozo's reaction to law enforcement
24 attempts to control his behavior. Exhibit 6, his reaction to
25 Jane Doe 2's restraining order was to continue to communicate

1 with her and to talk about how the police would not be able to
2 help her. In the communication discussing Jane Doe 3, the
3 teenage girl -- that's Exhibit 9 -- your Honor can see that
4 there's a discussion about a text message that the sheriff
5 sends using the teenage girl's phone to say, "Stop
6 communicating. This is the sheriff." And the response from
7 Mr. Cardozo is, "Ha, ha, police state."

8 So it's yet another example of Mr. Cardozo rejecting
9 the authority of law enforcement. Combined, your Honor, this
10 is overall a very clear example of an individual where there'll
11 be no conditions that would be adequate to ensure both his
12 appearance and the safety of the community and thus, under
13 3142(g) the Government submits Mr. Cardozo must be detained.

14 The nature and the circumstances of his offense, as,
15 as we've discussed, goes to that. It's not, your Honor,
16 violent in many of the traditional ways that this Court has
17 seen violence, but it is, we believe, a growing trend. Our
18 unit has three cases of this type of cyberstalking in the last
19 year. And again, as, as charged, it is a campaign to create
20 fear in an individual -- and a successful campaign at that -- a
21 campaign that escalated over time and a campaign that shows the
22 obsession that Mr. Cardozo had with both Jane Doe 1 and Jane
23 Doe 2 many, many years after he knew them in real life and the
24 significant impact on both of their emotional well-beings. The
25 communications are designed to put them in fear of actual in-

1 person physical contact as well. You know, "You will be
2 scared. You'll be looking over your shoulder." That online
3 communication threatens actions in the real world.

4 Your Honor, the history and the characteristics of the
5 defendant in this case also make it clear that no conditions
6 would be adequate to, to keep the community safe here, his
7 series of violent actions, long criminal history category.
8 There is no attempt by the Government, your Honor, to charge
9 this underlying conduct that occurred many years ago in Florida
10 as a sexual assault. And so the Government is not saying that
11 that was a rape. There is no allegation by the Government that
12 that should have been charged, but it is a lengthy discussion
13 of what was clearly an uncomfortable situation for a girl who
14 was in junior high with a senior boy.

15 And so the very fact of her describing that sexual
16 encounter appears to have triggered in the defendant some type
17 of obsessive aggression and that is what is charged, not the
18 underlying conduct. However, your Honor, we point to the fact
19 that while the Government hasn't characterized that encounter
20 as rape, Mr. Cardozo's reaction to that essay was to contact
21 the victim and, and, as noted here, say, "I hope someone does
22 fucking rape the shit out of you for what you have done to me,
23 you fucking bitch." That is the conduct that the Government is
24 arguing is criminal here, not the underlying assault, but
25 these, these communications, this incessant campaign against

1 Jane Doe 1 after she wrote about this experience. He also said
2 things to the extent, "I will devote my miserable life to
3 destroying yours." That is the conduct that's charged here and
4 that shows the nature and the history of this defendant.

5 There's also, your Honor, an extensive, as detailed in
6 both the original Pretrial Services report but most
7 significantly in the supplemental report prepared last week, a
8 history of substance abuse and suicide attempts, an individual
9 drinking since the age of 13, engaging in illegal drug use
10 since the age of 15. This suggests a lack of stability and
11 also suggests that conditions will not adequately secure the
12 safety of, of the community.

13 Multiple examples of him failing to obey court orders,
14 four, it appears to be four involuntary commitments under the
15 Baker Act, a pattern of engaging in criminal conduct while in
16 community control. In fact, the charged conduct here is the
17 conduct that he was under community control -- excuse me --
18 under a restraining order not to violate. We heard about the
19 fact that the defendant's -- excuse me -- the victim's lawyers
20 contacted the probation officer and tried to have the violation
21 noted by the probation officer, but we also heard about the
22 anonymizing techniques that were used by the defendant and this
23 is the very problem.

24 So he was not able to -- the, the victims in cases
25 where they're using anonymous communications -- we've seen it

1 in this case, we've seen it in other cyberstalking cases -- are
2 not able to use traditional restraining order system because
3 they don't have the physical conduct, they don't have the
4 proof. It's the anonymous online communications that are the
5 underlying threat here.

6 Your Honor, I, my understanding is that Ms. Peachy has
7 some inpatient treatment options that she would like to
8 propose. The Government's position is that those would be
9 inadequate. Those types of facilities are not designed to
10 control and monitor a dangerous defendant. They are treatment
11 facilities. We have seen an example here of the defendant's
12 spitting in the face of a corrections officer who was providing
13 security at a hospital treatment center. These facilities are
14 not lockdown facilities. Mr. Cardozo has clearly demonstrated
15 that he is unable to comply with the rules of those kinds of
16 facilities. In the incident that's in the Government's report
17 he had been told to go back to his room. That's what prompted
18 the spitting. That is not an individual who can be adequately
19 cared for in an inpatient treatment facility. And
20 significantly, your Honor, it's not a facility that can do the
21 type of Internet monitoring that this defendant seriously
22 needs.

23 So we have had three examples, your Honor, of the
24 defendant failing to comply with court orders not to contact
25 victims, even bringing up the fact that there's a restraining

1 order in the discussions with the victims, and the only way to
2 adequately assure that those victims will not continue to be
3 harassed is to have him in a facility that can prevent him from
4 using the Internet.

5 Your Honor, there have been two other cases last year
6 -- or excuse me -- in this last year in front of Judge Hennessy
7 where we discussed the same issue, cyberstalking cases, and the
8 challenges of keeping defendants away from the Internet.
9 Ultimately, the first defendant ended up conceding detention
10 after a lengthy hearing. There was supposed to be a second
11 detention hearing and then he conceded the second one, was
12 ordered detained by Judge Hennessy, and as part of that -- it
13 was Joseph Coxtas (phonetic) is the defendant's name -- as part
14 of that decision Judge Hennessy talked about the fact that the
15 Internet is everywhere and we see that in, in many ways in many
16 kinds of cases. The inability to prevent defendants from using
17 the Internet can be a real issue, but it's especially
18 problematic in cyberstalking cases where you have a defendant
19 who's acting obsessively, compulsively, who has an ability to
20 conceal their communications. That, combined with the easy
21 availability of the Internet to hand-held devices to contact
22 others on the Internet, make it almost impossible to prevent a
23 defendant of any kind, but particularly a defendant of this
24 kind, from using the Internet, from accessing it, from
25 continuing his activities.

1 For all of these reasons, your Honor, the Government
2 believes that there is no conditions that would reasonably
3 assure the safety of Mr. Cardozo -- excuse me -- the appearance
4 of Mr. Cardozo and the safety of the community and we seek
5 detention.

6 THE COURT: Thank you.

7 Ms. Peachy?

8 MS. PEACHY: Thank you, your Honor.

9 So this is a case where the presumption of release
10 applies. The burden is on the Government here. They've moved
11 for detention under two grounds, that Mr. Cardozo poses a
12 serious risk of flight and also, a serious risk that he'll
13 attempt to obstruct justice and intimidate witnesses.

14 To the extent they make arguments that suggest he
15 should be detained because he's a danger, I would object that
16 that would be improper in this case with these charges. As
17 your Honor knows, under United States v. Pluf, a First Circuit
18 case, the, an individual can only be detained in a case that's
19 described in 3142(f)(1).

20 THE COURT: I believe that they're seeking a danger on
21 the obstruction of justice provision, which I don't think is
22 restricted, right?

23 MS. SEDKY: That's correct, your Honor.

24 THE COURT: Maybe -- I could be wrong.

25 MS. SEDKY: We did not move under general

1 dangerousness --

2 THE COURT: Right.

3 MS. SEDKY: -- which I agree with Ms. Peachy is
4 restrictive. We moved under a risk of flight, 3142(f)(2)(A),
5 and risk of obstruction of justice by threatening and
6 intimidating witnesses under 31(f)(2)(B) [sic].

7 MS. PEACHY: So it's the Government's --

8 THE COURT: So I think it's available for this charge.

9 MS. PEACHY: I don't -- I disagree, your Honor, that,
10 that detaining him on grounds of dangerousness is available.

11 THE COURT: Well --

12 MS. PEACHY: I think he can only be detained on
13 grounds of serious risk of flight or serious risk of
14 obstructing justice --

15 THE COURT: Well, I think that's --

16 MS. PEACHY: -- or intimidating witness.

17 THE COURT: -- what they're going on. So --

18 MS. PEACHY: Right, right.

19 THE COURT: Okay.

20 MS. PEACHY: I think with regard to risk of flight
21 Mr. Cardozo is a lifelong resident of Florida. His parents are
22 there. Although he's lived with both his mother and his father
23 at times, I don't think that makes him transient. He -- at
24 this moment what we are proposing -- he has -- I can say I've
25 spoken to both of his parents and they are very supportive of

1 him in this. What we are proposing is that Mr. Cardozo go
2 immediately into an inpatient treatment facility. I've
3 contacted -- I've had contact with federal probation, the, in
4 West Palm Beach, Florida, the federal court there. They
5 routinely send individuals in Mr. Cardozo's situation to a
6 Salvation Army program. I don't know if -- I know -- I -- I --
7 I am serious. I, I think a substance abuse program would be
8 more appropriate or a dual-diagnosis program would be more
9 appropriate for Mr. Cardozo and if the Court is so inclined, I
10 would ask for the help of, of our probation office in, in, in
11 working with the federal probation offices in South Florida to
12 see what other programs may be available.

13 To be honest, your Honor, I had trouble getting the
14 information from the federal probation offices in South
15 Florida. I tried to contact, or someone in my office for me
16 tried to contact individual programs to see if they could tell
17 me if they work with federal probation and that also proved
18 very difficult. So it's just not something that I was able to
19 do effectively, but I'm sure that there must be something that
20 would be appropriate for Mr. Cardozo.

21 To the --

22 THE COURT: Why would it need to be in Florida?

23 MS. PEACHY: Because that's where his, his parents
24 are, your Honor. And we've learned Jane Doe No. 1 and Jane Doe
25 No. 2 are here in Massachusetts. To the extent that there's a

1 concern about Mr. Cardozo ever having, coming in contact with
2 them, it would probably be better for everyone that he's in
3 Florida. That's where he's from. I mean, he's -- it's charged
4 here, my understanding is, because Jane Doe No. 1 is, is, is a
5 resident of Massachusetts. But he has no ties here. His ties
6 are all in Florida.

7 So I think that it makes sense for, for him to go back
8 to Florida and then when the inpatient treatment program ends,
9 he can go back, he can return to living with his father on
10 restriction, on a GPS monitoring device, for example, home
11 confinement, something like that. As you know, you have a
12 letter from his father, who owns a plumbing supply company,
13 that he is offering his son full-time employment. I've spoken
14 to Mr. Cardozo, Mr. Cardozo's father, about what exactly that
15 employment is. It's not vague. It's -- he would be working as
16 a forklift operator in the warehouse that they have there. And
17 Probation, again, is free to call Mr. Cardozo's father --

18 THE COURT: I have to say I -- I --

19 MS. PEACHY: -- to confirm the employment.

20 THE COURT: His father does not appear in this record
21 to be appropriate. He either is aware or should have been
22 aware of a restraining order which said no firearms or he
23 should have been aware of a son who had been, had serious
24 mental health issues and had been put in facilities several
25 times, as I'm understanding it, for involuntary commitment and

1 yet pursued the firearm --

2 MS. PEACHY: Going to the shooting range, right.

3 THE COURT: -- shooting with him.

4 MS. PEACHY: Well, his mother --

5 THE COURT: I'm not sure that that's an appropriate
6 response --

7 MS. PEACHY: His -- his --

8 THE COURT: -- to the situation.

9 MS. PEACHY: His, his parents don't live together.
10 They've been separated for a long time. His mother is now
11 staying with a sister in Georgia because of the attack on
12 Mr. Cardozo that happened at her apartment. They were --
13 Mr. Cardozo was living with her at the time. That has put her
14 in significant fear of these investigators that have been, that
15 were hired by Jane Doe.

16 So she's now living in Georgia, but she does intend to
17 eventually move back to Florida. She is somewhat apprehensive
18 about Mr. Cardozo coming back to live with her because she's
19 afraid that these investigators will come back. So it's, it's
20 put Mr. Cardozo in a very difficult situation with his family
21 where his family is now in fear.

22 THE COURT: So the problem that I'm having with that
23 is that he's been living with his family on and off for many
24 years. These e-mails have been going on for many years. The
25 restraining orders have been going on for many years and it

1 does not seem on this record that these individuals have
2 sufficient control over him to ensure compliance with any court
3 order.

4 MS. PEACHY: Well, I think what can be done is that
5 Mr. Cardozo can be prohibited from using a computer, from any
6 Internet-capable device --

7 THE COURT: He's been ordered --

8 MS. PEACHY: -- that --

9 THE COURT: -- a number of times to have no contact
10 and that --

11 MS. PEACHY: But --

12 THE COURT: -- doesn't seem to have worked.

13 MS. PEACHY: But the -- because the con -- we're
14 talking about contact which is exclusively confined to the
15 Internet. It's -- we're not talking about phone contact.
16 We're not, definitely not talking about any in-person contact
17 or even an attempt to have in-person contact. We're talking
18 about using the Internet. If you take the Internet away, which
19 federal probation is capable of doing, capable of monitoring --
20 we do, they do it in other cases -- then you remove the means
21 by which he has had all of these unlawful communications over
22 the years.

23 So I think that that would be an appropriate condition
24 to address the concerns that he will try to intimidate
25 witnesses or obstruct justice at this point.

1 As far as risk of flight, I don't think that's as much
2 of a concern because he's never, there's no allegation that
3 he's ever fled from court -- from -- from court. He can be put
4 on a GPS monitoring device. He can be put in an inpatient
5 treatment program. We can restrict his travel to the State of
6 Florida, even though there's no evidence that he's ever tried
7 to actually leave Florida. His family, as I said, is in
8 Florida. That's where he was born and raised.

9 These comments that Mr. Cardozo made, I've tried to
10 put them in some context and I'm not necessarily excusing them.
11 They're nasty comments, to say the least, but as you heard,
12 Mr. Cardozo had very tame, normal, so to speak, communications
13 with Jane Doe No. 1 before she published this essay and then
14 she publishes this essay in which she characterizes him
15 basically as a rapist and he has this reaction. I mean, I'm
16 not equating it, but just yesterday we saw probably our next
17 Supreme Court Justice get very enraged over a similar type of
18 accusation made against him. Then she hires --

19 THE COURT: But he has no e-mails.

20 MS. PEACHY: Then she hires this vigilante private
21 investigator who follows him. She tries -- instead of going to
22 the police, she goes to his probation officer to try to get him
23 incarcerated. This private investigator follows him, follow,
24 knocks on neighbors' doors, speaks to, contacts his mother and
25 father. They detain the Uber driver that just dropped

1 Mr. Cardozo off, then the next day after bonding out -- the
2 exhibits will show this -- after bonding out this private
3 investigator that she hires goes to Mr. Cardozo's apartment and
4 tries to kill him, beat, beats him to a bloody pulp where he
5 has a fractured orbital bone and requires surgery. And many of
6 the comments that come after that about -- that reference --
7 where, where he's referencing \$8,000 in surgery bills to Jane
8 Doe No. 1, that's where that's coming from.

9 THE COURT: I understand the --

10 MS. PEACHY: So I'm not saying they don't cross the
11 line, but they, they need to be put in, in context. They are
12 not entirely out of the blue.

13 THE COURT: I, I recognize that and I think that that
14 is more than an unfortunate situation, but those are June of
15 2018. I mean, I -- if I'm reading this correctly, that's June
16 of 2018, which means that for years these victims have been
17 driven to, in a state of fear of living with this from someone
18 who has exhibited violent tendencies and who has exhibited an
19 ability to hide his identity.

20 I don't have a problem with Probation spending some
21 time talking to Florida. For present purposes, I find that
22 there's a significant risk of flight and there's a significant
23 risk of obstruction of justice and he will be detained.

24 I, I find his inability to comply with any court
25 orders and clearly inability to comply with his probation

1 officer's instructions, presumably down in Florida -- he's on
2 probation and he's still sending these very, very scary
3 communications -- leads me with no choice to believe that he
4 cannot comply with conditions of release.

5 That having been said, he clearly has a serious
6 emotional problem with this situation and, perhaps, a drug
7 problem. I don't know.

8 You are free to work with Probation to explore
9 alternatives and you may seek to reopen this if there, if you
10 have a proposal later, but his parents as third-party
11 custodians on the record that I have now is not appropriate,
12 all right? And you can always seek to reopen that.

13 But right now, I don't feel that I have a choice and
14 right now, I know in Massachusetts I don't have a lockdown
15 mental health alternative. I don't know what they have in
16 Florida and I don't know how to put him in a facility and
17 ensure no access to Internet capabilities, all of which if you
18 have an alternative for me, I will consider it. But for
19 present purposes, he will be detained, all right?

20 Is there anything further on this matter?

21 MS. SEDKY: Nothing, your Honor.

22 MS. PEACHY: No, your Honor.

23 THE COURT: Okay. Thank you.

24 (Proceedings concluded at 1:03 p.m.)

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CERTIFICATE

I, court approved transcriber, certify that the foregoing is a correct transcript from the official electronic sound recording of the proceedings in the above-entitled matter.

/s/ Janice Russell

October 11, 2018

Janice Russell, Transcriber

Date